

M. 258/2022 (Reg. No. 258/2022)

Order dt. 19-07-2023.

Petitioner files hazira. O.P. is absent without steps. Today is fixed for order in respect of interim maintenance. The record is taken up for passing order.

The petitioner has filed the instant case u/s. 125 of Cr.P.C and by the petition for interim maintenance she has prayed for interim maintenance from the O.P. to the tune of Rs. 12000/- a month in total for herself and her minor daughter stating inter alia that the petitioner was married to the O.P. according to Hindu rites and ceremonies on 06-12-2016 and after the marriage both of them resided together as husband and wife at the house of the O.P. After initial spell of happiness the petitioner was subjected to physical and mental torture by the O.P. and his relatives on trivial issues relating to household matters. One daughter namely, Ankita Giri, aged about five years at present, was born to the petitioner. When the petitioner protested against illicit affair of the O.P. with another woman, the O.P. assaulted her brutally. The petitioner was not properly maintained at her matrimonial home. Ultimately on 30-07-2022 the petitioner along with her minor daughter was driven out of her matrimonial home by the O.P. A specific case of bride torture being Pathar Pratima P.S. Case No. 218/22 dated 01-08-22 was initiated against the O.P. and his relatives at the instance of the petitioner. Ever since driving her out the O.P. has neither looked after the petitioner and her minor daughter nor provided any maintenance for them. The petitioner has no independent source of income and as such she is passing her days in much hardship at her paternal home. The O.P. is financially stable. He has own dwelling house and landed property. He works in rice mill and also supplies labour. He earns about Rs. 50000/- a month.

The O.P. has filed written objection against the application u/s. 125 of Cr.P.C. and his objection against the interim maintenance is also based upon the same. The O.P. has denied all the material contentions of the petitioner save and except those of marriage between the parties and paternity of the minor daughter. The specific objection of the O.P. is that the petitioner did not perform any household work. Since she could not cope with the family of the O.P., both of them went to Birbhum where both of them worked in a rice mill and they lived happily. After lock down they were compelled to return to the house of the O.P. The petitioner created tension in family life. Thereafter the both of them started living together at the paternal house of the petitioner. But the O.P. was driven out therefrom by the relatives of the petitioner. Ever since filing the bride torture case the petitioner has been residing at her paternal home. All the efforts on the part of the O.P. to bring her back went in vain. The petitioner disclosed her reluctance to live with the O.P. unless he stays with her at her paternal home as domesticated son-in-law. The petitioner earns about Rs. 10000/- a month by rearing domestic animals. The O.P. has no property of his own. He is a day labour by profession and he earns Rs. 3000/- only a month. He has to maintain his parents. The O.P. has no objection if the petitioner lives with him at his house.

Both sides have filed respective affidavit of assets and liabilities in consonance with their respective pleading.

At this stage the real dispute between the parties cannot be decided. The disputed matters involved in the case relevant to the present proceeding are to be decided during trial upon evidence adduced by the parties. Marriage between the parties and paternity of the minor daughter are admitted in this case. The petitioner has filed the instant case praying for maintenance for herself and her minor daughter from the O.P. The application for interim maintenance is also supported by affidavit. Nowhere in his written objection the O.P. has claimed that he is not an able bodied person. Moreover, from the very contents of the same it appears that the O.P. is an able bodied person. An able bodied person has liability to earn sufficient means to maintain his wife.

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contd.

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The underlying principles of section 125 of Cr.P.C. mandate for prevention of vagrancy and the same is a beneficial legislation. Considering all aspects, at this stage I do not find any sufficient reason to refuse the prayer for interim maintenance allowance. Now considering the status of the parties as transpired from the materials on record and the cost of living now a days, I am of the view that it would be just and proper to direct the O.P. to pay monthly allowance of Rs. 4500/- in total as interim maintenance for the petitioner and her minor daughter and also cost of Rs. 500/- for the present proceeding to the petitioner. The monthly allowance of Rs. 4500/- is inclusive of Rs. 3000/- for the petitioner and Rs. 1500/- for her minor daughter. I am also of considered view that the order for interim maintenance should be effective from 17-08-2022 i.e. the date of filing of the present application. In the result the application for interim maintenance succeeds in part.

Hence, the prayer for interim maintenance is allowed in part on contest with cost of Rs. 500/-.

The O.P. is hereby directed to pay Rs. 4500/- a month in total as interim maintenance allowance for the petitioner and her minor daughter (Rs. 3000/- a month for the petitioner and Rs. 1500/- a month for the minor daughter of the petitioner) with effect from 17-08-2022 within 10th day of each successive English calendar months and Rs. 500/- as one time cost to the petitioner. The O.P is also directed to pay the entire amount of interim maintenance allowance and the amount of cost within fifteen days from the date of this order, failing which the petitioner will be at liberty to realize the entire amount of arrear along with the current amount of the interim maintenance allowance and also the amount of cost by putting this order into execution.

To 18-01-2024 for evidence of P.Ws.

Let a free copy of this order be provided to the petitioner.

Typed and printed by me.

Sd/-

A.C.J.M., Kakdwip.

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